

State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
PUBLIC MEETING AGENDA

2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

April 12, 2006
10:00 a.m.

ROLL CALL:

Candice A. Traeger, Chairwoman
Marcy V. Saunders, Board Member
Robert Pacheco, Board Member

MINUTES OF MARCH 8, 2006

MINUTES OF MARCH 22, 2006

ADMINISTRATIVE MATTERS

(Information regarding the general administration of cases pending before the Appeals Board.)

1. CALENDARING/CASELOAD

NEW BUSINESS

(The Appeals Board hears and discusses new reports presented by staff.)

OLD BUSINESS

(The Appeals Board hears and/or discusses matters on a follow-up basis.)

1. 2006 LEGISLATION
(Review and discuss legislation introduced that impacts the Appeals Board.)
2. 2005/06 BUDGET
(Review and discuss budget issues for this fiscal year.)
3. 2006/07 BUDGET
(Review and discuss budget issues for this fiscal year.)

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CHAIRWOMAN'S REPORT

(Hear report from the Chair on issues affecting the Appeals Board.)

BOARD MEMBERS' REPORTS

(Hear reports from Board Members on issues affecting the Appeals Board.)

EXECUTIVE OFFICER'S REPORT

(Report regarding administrative matters and news from the Department and Appeals Board.)

STAFF REPORTS

(Reports from the Presiding ALJs and the Chief Counsel regarding matters from the Hearing Operations and Legal Units.)

Any matter not completed at this meeting may be continued to subsequent meetings.

PUBLIC COMMENT

(Public comment will be entertained during the discussion of each agenda item of the Open Meeting.)

APPEALS

(Report of statistics regarding appeals docketed by the Appeals Board for the current month, previous months, and previous four years)

Intents to Appeal in March 2006	_____
Total Intents to Appeal in 2006	_____
Appeals Docketed in March 2006	_____
Total Appeals Docketed in 2006	_____
Appeals Packets Completed in March 2006	_____
Total Appeals Packets Completed 2006	_____

	2001	2002	2003	2004	2005	2006
January	387	586	482	357	422	236
February	302	420	405	421	435	
March	421	320	470	513	400	
April	372	559	526	416	406	
May	612	589	359	325	187	
June	421	384	446	486	517	
July	410	511	367	320	372	

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August	549	426	345	386	345	
September	350	374	448	269	380	
October	482	438	435	425	346	
November	507	368	331	332	326	
December	447	389	621	509	442	
TOTAL	5255	5367	5235	4762	4651	

Recess to Closed Session to discuss matters pursuant to Government Code § 11126 (a), (c) (3), and (e) and Labor Code sections 6609 and 6620.

The next Public Meeting/Closed Session is scheduled
Wednesday, April 26, 2006
Cal/ OSHA Appeals Board
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
&
100 North Barranca Street, Suite 410
West Covina, CA 91791

NOTICE TO PARTIES: Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district Office or the state-wide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The state-wide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing.

For Further Information
Contact

Janet M. Eagan
2520 Venture Oaks Way, Suite 300
Sacramento, CA 95833
(916) 274-5751
oshappeals@dir.ca.gov
<http://www.dir.ca.gov/oshappeals/>

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State of California
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD
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Government Code § 11126 (a), (c)(3), and (e)
for
Wednesday, April 12, 2006

10:00 a.m.

Sacramento, California
&
West Covina, California

TO: Members of the California Occupational Safety and Health Appeals Board

FROM: J. Jeffrey Mojcher, Chief Counsel

DATE: March 30, 2006

RE: Closed Session of the Board on April 12, 2006

Pursuant to Government Code section 11126, subdivisions (a), (c)(3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

DECISIONS OF ADMINISTRATIVE LAW JUDGES:

(Written decision issued by an Administrative Law Judge. The decision summarizes the evidence received from the Division of Occupational Safety & Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)

1. BRYDENSOT METAL PRODUCTS, 03-R3D3-3554 THROUGH 3555
2. LOS ANGELES CITY FIRE DEPARTMENT, 03-R3D5-3960
3. TEICHERT AGGREGATES, 03-R5D1-1868 THROUGH 1869

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ORDERS OF ADMINISTRATIVE LAW JUDGES:

(Written order issued by an Administrative Law Judge after a pre-hearing conference in which the Division of Occupational Safety & Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)

1. ALEX R. THOMAS & COMPANY, 04-R2D7-4657 THROUGH 4664
2. ANGELICA TEXTILE SERVICES, 04-R3D2-1759
3. APPA SEAFOOD, INC., APPA FINE FOODS, INC., 03-R3D3-4667 AND 4668
4. BALDWIN CONTRACTING COMPANY, INC., 02-R2D3-4278
5. BAR CAL STEEL COMPANY, 05-R1D4-934
6. BEST BUY CO., INC., 05-R2D5-1772 AND 1773
7. BEVERLY EMBROIDERY, 03-R4D2-3814 THROUGH 3816
8. C E TOLAND & SON, 05-R1D5-1860
9. CAL POLY STATE UNIVERSITY, 05-R4D3-3688 AND 3689
10. CENTEX HOMES/SO. COAST DIVISION, 03-R3D1-3935
11. CITY OF COMMERCE DEVELOPMENT SERVICES, 03-R4D2-3818 AND 3819
12. COUNTY LINE FRAMING, 03-R3D3-4180 AND 4181
13. CROWN SHEET METAL INC., 05-R3D3-799 AND 800
14. D & L SHEET METAL, INC., 03-R3D1-433 THROUGH 435
15. DEL RIO ROOFING CO., INC., 05-R1D3-3583, 06-R1D3-116
16. EARTHGRAIN BAKING COMPANIES dba SARA LEE BAKERY GROUP, 05-R2D1-870 AND 871
17. EL DORADO COUNTY SHERIFF'S OFFICE, 05-R2D1-1581
18. ENERGETIC LATH & PLASTER, 03-R2D1-2529 AND 2530
19. ENES CONSTRUCTION CO., 05-R2D3-2649
20. EVASIVE ANGLES, 04-R6D2-3689

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21. EVASIVE ANGLES, 04-R6D2-3690 AND 3691
22. FILTRATION GROUP, INC., 03-R1D5-4300
23. G & S MILLING COMPANY, 05-R1D5-942
24. HAUER CONSTRUCTION & MAINTENANCE, 04-R1D1-4642 AND 4643, 06-R1D1-867
25. HICKMAN ROOFING AND SUPPLY, 05-R2D4-1589 THROUGH 1591
26. HUGHSON NUT COMPANY, INC., 03-R2D4-2417
27. INTERMODEL SUPPORT SERVICES, 04-R4D2-4087
28. JC CONSULTING CONSTRUCTION, 03-R1D4-3866 AND 3867
29. JM CUSTOM CABINETS & FURNITURE, INC., 03-R6D1-706 THROUGH 709
30. JAMES JONES COMPANY, 05-R6D2-3898 THROUGH 3901
31. JONES & SONS, 05-R2D5-2921
32. JUNG JA PYO dba ELIZ MODE, 04-R4D1-4687
33. KAPRIELIAN BROTHERS PACKING, 03-R2D5-4728
34. KITCHEN WORKS, INC., 03-R1D5-3874 AND 3875
35. KOCHERGEN FARMS, 05-R2D5-2656
36. L & J CONSTRUCTION, 04-R4D4-3980 THROUGH 3983
37. LAUSD WEST VALLEY OCCUPATIONAL CENTER, 03-R4D3-4020
38. LEE'S HALLMARK, 05-R3D5-4568
39. LOS ANGELES COUNTY EDUCATION – JCCS-MASADA RCEC, 04-R4D1-1451
40. LOS ANGELES COUNTY PUBLIC SOCIAL SERVICES, 04-R4D1-4733
41. LOUIS & RIPARETTI ROOFING, 03-R1D3-4622 THROUGH 4624
42. MCI MULTI CABLE, INC., 05-R4D2-4598 AND 4599

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43. MERCER CONSTRUCTION, 04-R4D1-4689
44. NEW VAC ELECTRONICS, INC.; DCX CHOL ENTERPRISES, INC., 04-R4D3-1195 AND 1196
45. NEW VAC DIV., DCX CHOL ENTERPRISES, INC., 04-R4D3-3165 AND 3166
46. OLIVER & COMPANY, INC., 05-R1D1-858 THROUGH 862
47. PG & E NATIONAL ENERGY GROUP dba LA PALOMA GENERATING COMPANY LLC, 04-R4D3-289
48. PAPERBOARD PACKAGING, INC., 03-R2D3-2726 AND 2727
49. QUENTIN MEATS, 05-R6D2-4489 THROUGH 4491
50. RCH CONSTRUCTION, 04-R6D2-3792
51. RICH MANUFACTURING LLC, 05-R6D2-3696 THROUGH 3700
52. RICK DOTEN PRODUCTIONS, INC., 05-R4D1-2849
53. RIGHT MANUFACTURING LLC, 05-R6D2-3696 THROUGH 3700
54. ROMARK LOGISTICS, INC., 05-R3D3-353
55. SJL PLUMBING & PIPING, INC., 04-R4D5-3375
56. CITY & COUNTY OF SAN FRANCISCO, PUC, WATER POLLUTION CONTROL DIVISION, 05-R1D1-1269 AND 1270
57. SANCHEZ FIREWOOD, 04-R4D3-3392 THROUGH 3394
58. SEAL-TECH, INC. dba SEALANT TECHNOLOGIES, INC., 05-R1D5-2894 AND 2895
59. SHEEHAN CONSTRUCTION, INC., 05-R1D5-1858 AND 1859
60. SIERRA PACIFIC INDUSTRIES, 03-R2D3-3165
61. SINANIAN DEVELOPMENT, INC., 03-R4D1-4208 AND 4209
62. STANISLAUS COUNTY SHERIFF'S OFFICE, 05-R2D4-2397
63. TTB PRODUCTIONS, 04-R6D2-3692
64. TTB PRODUCTIONS, 04-R6D2-3693 AND 3694

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- 65. THE GAS COMPANY, 04-R4D4-4605
- 66. THE SOTO COMPANY, 05-R3D1-341 AND 342
- 67. TOSCA NATURAL STONE, 05-R3D2-345 AND 346
- 68. TREVINO & SONS FARM LABOR, 05-R2D5-2654
- 69. TRINITY CHILDREN AND FAMILY SERVICES, 05-R1D5-608
- 70. TUTOR-SALIBA-SLATTERY JOINT VENTURE, 03-R5D1-1318
- 71. USS-POSCO INDUSTRIES, 03-R2D2-3773
- 72. VALLEY FOOD WAREHOUSE, 02-R4D3-3470 THROUGH 3472
- 73. VAL'S PUMBING & HEATING, INC., 05-R1D2-1230 THROUGH 1235
- 74. VENTURA CITY WASTWATER DIV., 04-R3D7-4560 THROUGH 4562
- 75. WAL MART, 06-R3D5-064
- 76. WALLDESIGN, INC., 05-R3D2-347 AND 348
- 77. WOODCREST CHRISTIAN SCHOOL SYSTEM, 05-R3D3-351 AND 352
- 78. WRIGHT'S CABINETS, INC., 03-R2D4-2412 AND 2413
- 79. WRIGHT'S CABINETS, INC., 03-R2D4-2414 AND 2415

PETITIONS FOR RECONSIDERATION:

(The Division of Occupational Safety & Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)

- 1. FRONTIER CONTRACTING, INC., 03-R1D5-3063

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DECISIONS AFTER RECONSIDERATION (DRAFTS):

(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)

ACE LATH & PLASTERING, 01-R6D1-4798 through 4806
B & T INDUSTRIES, 03-R6D1-847 THROUGH 852
BLF FRAMING, 02-R4D3-1837 & 1838
BAY AREA SYSTEMS & SOLUTIONS, dba BASS ELECTRIC, 01-R1D3-106
BEHAVIORAL HEALTH SERVICES, INC., 01-R3D5-3995 through 3997
BILL CALLAWAY & GREG LAY dba WILLIAMS REDI MIX, 03-R2D1-2400
BLUE DIAMOND MATERIALS, 02-R5D2-1268
BORDEN MANUFACTURING, 04-R2D3-4390
CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
CALIFORNIA FAMILY FITNESS, 03-R2D1-095 & 096
COX COMMUNICATIONS, 03-R3D2-1942
D.F. TECHNODIESEL, 03-R1D2-4619
DAVIS BROTHERS FRAMING, INC., 03-R3D1-0114
E. L. YEAGER CONSTRUCTION COMPANY, INC., 01-R5D3-3261
ETTER & SON CONSTRUCTION, INC., 03-R1D5-3130 & 3131
HARRIS CONSTRUCTION COMPANY, INC., 03-R2D5-3914
HEARN CONSTRUCTION, INC., 02-R6D1-3533 through 3536
HENSEL PHELPS CONSTRUCTION, 01-R2D1-1618 & 1619
ILH CONSTRUCTION, 02-R1D1-4171 & 4172
IMPERIAL HIGHWAY CHEVRON, 03-R4D2-2778 through 2780
J. F. SHEA CONSTRUCTION, INC., 02-R5D3-801
JAMES HIGBY ENGINEERING, 02-R4D3-4562 through 4567
JERLANE, INC., dba COMMERCIAL BOX AND PALLET, 01-R3D2-4344
K. A. BINE CONSTRUCTION, 03-R1D5-2031
KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-0323
KEYSOR-CENTURY CORPORATION, 02-R3D7-745 through 771
KIMES-MORRIS CONSTRUCTION, 02-R1D4-1204 through 1209 & 02-1273
KNOTT'S BERRY FARM, 01-R3D1-4331 & 4332
LONG BEACH CITY COLLEGE, 03-R3D5-2747
LOWPENSKY MOULDING, 03-R1D1-3405
MCI WORLDCOM INC., 00-R1D1-440 through 442
MEDALLION INDUSTRIES, INC., 02-R6D1-2825 through 2830
MORILLO CONSTRUCTION, 03-R4D2-1218 through 1222
McDONALDS #10660, 03-R1D3-4116 & 4117
NEW ENGLAND SHEET METAL WORKS, 02-R2D5-2091
NIBBLELINKS MASONRY CONSTRUCTION, 02-R3D3-1399 through 1401
NORTH FORK SPRINGS CONSTRUCTION, 02-R4D1-199 through 202
PMR RACE CARS, 03-R3D3-1824 & 1825
POUK & STEINLE, INC., 03-R4D2-1495 & 1496
RII PLASTERING INC., 02-R3D1-2679
RAMONA EQUIPMENT RENTAL, INC., 02-R3D2-2944 through 2948

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SACRAMENTO MUNICIPAL UTILITY DISTRICT, 02-R2D1-1654 through 1656
SHEFFIELD FURNITURE CORPORATION, 00-R6D2-1322 et. al. & 01-1397
SILVERCREST WESTERN HOMES, CORP., 03-R2D1-4305
STILES PAINT MANUFACTURING, 02-R1D4-1630
STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
SUN VALLEY SKYLIGHTS, INC., 03-R4D1-2613 & 2614
TRIO METAL, 03-R4D4-0316 & 0317
UNITED AIRLINES, 00-R1D5-2844
WAREHOUSE DEMO SERVICES, 03-R1D4-3427
WEST VALLEY CONSTRUCTION COMPANY, INC., 01-R1D2-3017 & 3018

FCI CONSTRUCTORS, 01-R4D4-2161 & 2162
Discussion on these Decision After Reconsideration Drafts

PENDING LITIGATION

(If the Division of Occupational Safety & Health or the Employer disagrees with a decision after reconsideration or a denial of a petition for reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)

SUPERIOR COURT:

1. HFS INVESTMENTS, INC., 01CS00981 (96-3079)
2. UNDERGROUND CONST. CO. 02CS00708 (00-2356)
3. DSS ENG. CONTRACTORS, 02CS00928 (99-1023)
4. CASTLE PRECISION INDUSTRIES, C02CS01896 (01-652/56)
5. TUTOR-SALIBA-PERINI (03CS803), 03CS00202 (97-3209/12)
6. SUNRISE WINDOW CLEANERS, INC., 03CS00300 (00-3220/21)
7. TEICHERT AGGREGATES, 03CS00659 (01-1193)
8. VANCE BROWN BUILDERS, 03CS00660 (00-3318/19)
9. BENICIA FOUNDRY/IRON WORKS, 03CS00802 (00-2976/2987)
10. HARBOR SAND & GRAVEL, INC., 03CS00974 (01-1016)
11. LUIS E AVILA (E & L AVILA LABOR), ECU01582 (00-4067)

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12. ARB, INC., 03CS01454 (01-2119)
13. MOUNTAIN CASCADE, 03CS01655 (01-3561)
14. RUDOLPH & SLETTEN, 04CS00540 (01-478)
15. PACIFIC RESOURCE RECOVERY, 04CS00695 (00-1108)
16. MATAROZZI-PELSINGER BUILDERS, 04CS01204 (01-1400)
17. BLF FRAMING, INC., 04CS01618 (02-1837/38)
18. C DESILVA GATES CONSTRUCTION, 05CS00008 (01-2742)

APPELLATE COURT:

1. SULLY MILLER CONTRACTING CO., C049013 (01CS01669) 99-896
2. BRAGG CRANE, (LA) B182094 (BS091587) 01-2428
3. BEUTLER HEATING & AIR, C050020 (01CS01762) 98-014
4. MOUNTAIN CASCADE, C050452 (01CS01811) 99-1024
5. TEICHERT CONSTRUCTION, C050709(02CS00517) 98-2512
6. C. OVERAA & CO., CO51245 (04CS00570) 01-3560
7. THE HERRICK CORP., CO51506 (01CS00438) 97-1373

OTHER LEGAL MATTERS

(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)

Underground Construction Co., Inc. v. Cal. OSHAB and DIR/DOSH- Sacramento Superior Court Case No. 01CS01671. DOSH's Chief Counsel sent the Board a letter arguing the Board did not fully comply with the Superior Court's Order granting the Writ, and requesting the Board reissue its DAR. Employer's Counsel responded that the Board is without jurisdiction to do as DOSH requested. The Board will consider the advice of counsel and reply.

PERSONNEL *(Issues regarding staff.)*

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Any matter not completed at this Closed Session may be continued to subsequent meetings.